



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 28, 1994

Ms. Alesia L. Sanchez  
Legal Assistant  
Legal Services, MC110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR94-712

Dear Ms. Sanchez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 26282.

The Texas Department of Insurance ("the department") received a request for information concerning Vision Service Plan. You say the department will release some of the requested information. The department seeks to withhold some information based on sections 552.101 and 552.112 of the Government Code.

Section 552.101 excepts from required public disclosure information considered to be confidential by law. You raise section 10 of article 21.49-1 of the Insurance Code which states as follows:

All information, documents, and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to Section 9 and all information reported pursuant to Section 3, shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the commissioner or any other person, except to insurance departments of other states, duly authorized law enforcement officials, any district attorney of this state, the attorney general and any grand jury, in the official conduct of the respective

duties of those persons, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby notice an opportunity to be heard, determines that the interest of policyholders or the public will be served by the publication thereof, in which event he may publish all or any part thereof in such manner as he may deem appropriate.

You contend that this provision protects one document titled, "Registration for Insurance Company Holding Company System." You inform us that this registration document was reported to the department pursuant to section 3 of article 21.49-1 of the Insurance Code. As section 10 of article 21.49-1 makes confidential "all information reported pursuant to [s]ection 3," we conclude that the department must withhold the registration document based on section 552.101 of the Government Code.

You also submitted a document titled, "Foreign Examination Report Summary," and contend that the department may withhold this document based on section 552.112 of the Government Code. Section 552.112(a) of the Government Code excepts from required public disclosure


information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both.

This exception may protect information that indirectly reveals the contents of examination, operating, or condition reports. *See* Open Records Decision No. 261 (1980) (conclusions of examination report of state bank). The document at issue indirectly reveals the contents of an examination report. Additionally, the department is a financial institution for purposes of section 552.112 of the Government Code. *See* Open Records Decision No. 158 (1977). We, therefore, conclude that the department may withhold from required public disclosure the "Foreign Examination Report Summary" pursuant to section 552.112 of the Government Code.

In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499, 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kay Guajardo  
Assistant Attorney General  
Open Government Section

KHG/rho

Ref.: ID# 26282

Enclosures: Submitted documents

cc: Ms. Melissa Kazen  
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(w/o enclosures)